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July 6, 2001

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Magalie Roman Salas
 Secretary
 Federal Communications Commission
 445 12th Street, S.W.
 Washington, D.C. 20554

Re: Response to Claims in CS Dkt. No. 00-2

Dear Ms. Salas:

This letter is being written on behalf of the National Basketball Association, National Football League, National Hockey League and the Office of the Commissioner of Baseball ("the Leagues") in response to claims made by EchoStar Satellite Corporation ("EchoStar") in its Reply in Support of EchoStar Satellite Corporation's Petition for Reconsideration, filed February 8, 2001 and in an ex parte meeting with the Commission's staff on May 17, 2001.

The governing provisions of law, Section 339(b)(1)(B) of the Communications Act, was adopted as part of the Satellite Home Viewer Improvement Act in November 1999. Following the enactment of this law, the Commission promptly undertook to gather the needed information to implement the Congressional requirement. EchoStar essentially declined to participate in this proceeding. Although called upon by the Commission in its Notice of Proposed Rulemaking in CS Docket 00-2 to show the ostensible burden of complying with Section 339(b)(1)(B), EchoStar remained silent until its final opportunity to place anything in the record. In fact, the Commission in its Report and Order in CS Docket 00-2 characterized EchoStar's showing in its Comments and Reply Comments:

There are no specific costs provided [by DirecTV]. The EchoStar comments offer even less specific information. EchoStar provides no information about particular burdens that would be imposed by the requirement to black out sports events from network stations.

Report and Order, at Para. 63. (Emphasis added.)

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Now -- well past the 11th hour -- EchoStar has attempted for the first time to document its claims of economic or technical hardship. It is an abuse of the Commission's process for a party to begin making its case after the time for filing has

ARNOLD & PORTER

Magalie Roman Salas
July 6, 2001
Page 2

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expired. Nevertheless, EchoStar now contends that its conditional access system, which it uses to implement blackouts, cannot meet the demands of blacking out distant network signals pursuant to Section 76.127 in addition to its voluntary contractual obligations and its obligations to blackout superstation signals pursuant to the rule. In its final pleading and in its ex parte meeting with the Commission,¹ EchoStar for the first time claimed: (1) it is running out of the codes (128 codes in 12 different categories) necessary to implement blackout restrictions, and it is "closer to capacity now than before" (footnote 11 of its Reply) or "near capacity"; (2) its alleged reduced capacity raises the "possibility" that it must replace its conditional access system; and (3) the replacement of its conditional access system would cost, under its own "preliminary estimate" of the "possible burden," either \$75-\$100 million (Reply page 1) or \$123.5 million (Reply page 8).

EchoStar's showing is facially insufficient to allow the Commission to assess the impact of applying the blackout rule to distant network signals, let alone to repeal the 1999 statute. As shown in the attached Declaration of Glenn Gurgiolo at Paras. 5 and 11, EchoStar has failed to identify how its conditional access and coding systems work, merely stating that it is "near capacity." EchoStar has not indicated how many codes it is using, how many are available, or how many will be needed to implement Section 76.127 as to network stations. There is no basis on which to analyze its "near capacity" allegation.

At the May 17 meeting, representatives of EchoStar stated without equivocation that EchoStar is providing protection against superstation importation based on notices received from Baseball and the NBA. EchoStar has not shown why, if it is currently giving protection to superstations, it cannot provide the same zone of protection for network stations. The creation of a 35-mile Zip Code area to give protection, for example, around Major League Baseball cities to protect against superstation importation creates by definition a 35-mile area for any and all other stations. Put simply, no additional blackout areas logically would be created by the application of the rule to distant network signals. Gurgiolo Declaration at Para 6.

¹ EchoStar has not only abused the Commission's pleading cycle, but compounded its actions by failing to file the requisite notice of its May 17 ex parte meeting with the Commission under Section 1.1206(b)(4) of the Commission's rules until more than two weeks after the meeting, notwithstanding the rule's requirement of notice.

ARNOLD & PORTER

Magalie Roman Salas

July 6, 2001

Page 3

Moreover, all of the Leagues have agreed to use a standardized Zip Code list for Section 76.127 purposes. All four Leagues have agreed on a single set of Zip Codes for cities common to the Leagues. See Declaration of Susanne Hilgefort at Para. 12; Declarations of Francis Hawkins, David Denenberg, and John Tortora at Paras. 6, respectively.

Also, at the May 17 meeting, EchoStar complained further that due to different zones of protection demanded by ESPN and Fox Sports for national carriage of Major League Baseball games, three sets of blackout codes were used in each Major League market. Baseball, however, is the only sport where this is the case. With regard to the rest of the Leagues, both the National Football League and the National Hockey League have national contracts that require blackouts only with ESPN and the National Basketball Association has a national contract that requires blackouts only with Turner. Thus, none of the other leagues have more than one national rights holder for whom blackouts are required, making the ESPN and Fox Sports blackout situation unique.

EchoStar's complaint that it will be forced to replace its conditional access system at a large cost is a scare tactic, pure and simple. In any event, if such a change did take place, it would represent a capital improvement that will inure to EchoStar's advantage and will upgrade its system technologically, benefiting it in competition with DirecTV and any other competitor. Moreover, there is no basis to suggest that such an investment will not occur with or without a blackout rule, especially since EchoStar could not expect its conditional access system to last forever – especially in the age of interactive television. Gurgiolo Declaration at Para. 11. In addition, its cost estimates not only are totally unclear and incapable of evaluation based on information provided, but at one and the same time, vary by as much as 65%.² Gurgiolo Declaration at 12.

EchoStar offers no reason why the Commission should not implement the blackout rule as to distant network signals on an industry-wide basis based upon the shortcomings of its own conditional access system. EchoStar is free of course to file its own Petition for Special Relief or Petition for Rulemaking which would allow the Commission to consider EchoStar's claims in the proper context. Based on all of the

² At page 1 of its Reply, EchoStar says: "A possible need to install new software and upgrade smart cards for all of EchoStar's subscribers would entail an expenditure in the \$75-\$100 million range." At page 8, EchoStar says: "A conservative cost estimate for a total system replacement is \$123.5 million dollars [sic]."

ARNOLD & PORTER

Magalie Roman Salas
July 6, 2001
Page 4

failings and shortcomings of the EchoStar allegations, the Commission must reject the claims made here.

Should you have any questions, please communicate directly with the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Garrett /aw".

Robert A. Garrett
Christopher Winters

Of Counsel:

Philip R. Hochberg

cc: William Johnson, Esq.
Eloise Gore, Esq.
Ronald Parver, Esq.
Rhonda M. Bolton, Esq.

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
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Implementation of the Satellite Home)	CS Docket No. 00-2
Viewer Improvement Act of 1999:)	
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Sports Blackout Issue)	
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DECLARATION OF GLENN GURGIOLO

1. My name is Glenn Gurgio. I am President of sports.comm, inc. a consulting firm for telecommunications companies.
2. I have extensive experience in the field of satellite carrier operations and the operations of blackout restrictions for sporting events. My experience was obtained over the course of more than 20 years in the business of pay television broadcasting, broadcast syndication, and sports network broadcasting. Most recently, I served as President of Fox Sports Direct (and its predecessors), which owned the "direct-to-home" and out-of-market rights for 22 Regional Sports Networks. As a part of my responsibilities, I maintained relationships with satellite carriers such as DirecTV, EchoStar, and PrimeStar, which provided the Ku-band platform for the distribution of the signals of the sports networks. I am also familiar with the implementation of blackouts of sports programming by satellite carriers as a result of Fox Sports Direct's (and its predecessors') relationships with the satellite carriers that carried its programming.
3. I have reviewed the Reply in Support of EchoStar Satellite Corporation's Petition for Reconsideration filed on February 8, 2001 concerning EchoStar's ability to

implement the “Sports Blackout Rule” on the retransmission of telecasts of sporting events on network stations. I also participated in ex parte meetings with members of the Cable Services Bureau (“CSB”) on three occasions, including May 17, 2001, where an EchoStar engineer, Rex Povenmire, elaborated on the factual statements made in EchoStar’s Reply.

4. I understand that EchoStar would like the CSB to reconsider the application of the Sports Blackout Rule to broadcasts of sporting events on network stations, but does not object to the application of the Sports Blackout Rule to broadcasts on superstations. In support of its position, EchoStar stated the following in its Reply and at the ex parte meeting: (1) it implements blackout restrictions by means of its conditional access system; (2) its conditional access system consists of 12 different categories, each of which can support up to 128 different blackout codes; (3) it assigns each customer to one blackout code in each category; (4) it currently implements the Sports Blackout Rule for superstation broadcasts; (5) it is running out of the codes necessary to implement blackout restrictions, and it is “closer to capacity now than before” (footnote 11 of its Reply) or “near capacity”; (6) its alleged reduced capacity raises the “possibility” that it must replace its conditional access system; and (7) the replacement of its conditional access system would cost, under its own “preliminary estimate” of the “possible burden,” either \$75-\$100 million (Reply page 1) or \$123.5 million (Reply page 8).

5. It is difficult to evaluate the position of EchoStar from a technical standpoint because EchoStar has not revealed the number of codes it is currently utilizing. It would be necessary for EchoStar to provide the CSB and the professional sports leagues with a statement of how each one of the codes is assigned within its

conditional access system, and how many codes are currently in use by EchoStar for the various blackout restrictions it has implemented. Instead, EchoStar has only stated that it is “near capacity” on its 12-category/128 code conditional access system.

6. Because EchoStar already has implemented the Sports Blackout Rule for superstation broadcasts, no new codes should be necessary in implementing the Sports Blackout Rule for network signals. The zip codes affected by the 35-mile rule as applied to superstations should be the same as the zip codes affected by the 35-mile rule as applied to network stations. It is unclear why applying the Sports Blackout Rule to network stations would add *any* additional burdens to the EchoStar system.

7. I also understand that Major League Baseball, the National Basketball Association, the National Football League, and the National Hockey League have agreed to present EchoStar and other satellite carriers with a single set of zip codes for the 35-mile Sports Blackout Rule area. Such identical zones will reduce the burdens on the EchoStar conditional access system.

8. Furthermore, the absolute number of blackout zones would also be reduced by the fact that a number of cities are served by two teams in the same league (e.g., the New York Yankees and the New York Mets, the Los Angeles Lakers and the Los Angeles Clippers).

10. The need to provide blackouts for professional sporting events has been well known in the satellite industry for years. The blackout requirements of Fox and ESPN are not new, and have been in place for some time. EchoStar’s failure to plan for the need to black out sporting events according to the Sports Blackout Rule and other contractual requirements was simply short-sighted.

11. In my opinion, EchoStar's limited capacity problem was brought upon itself. EchoStar's conditional access system is not very advanced, and falls considerably behind that of other satellite carriers such as DirecTV. EchoStar will necessarily have to replace its conditional access system over time to take advantage of new technologies and new satellite channel offerings and services such as Interactive TV and Internet via satellite. Should EchoStar replace its conditional access system in the near future, regardless of whether it is due to the implementation of the Sports Blackout Rule or other program exclusivity rules, it will reap the collateral benefits of updating its system. A new conditional access system would allow EchoStar to be more flexible in offering programming to its customers, as well as accommodating the contractual requirements of programming suppliers. Accordingly, even if EchoStar's conditional access system needed to be replaced, the cost of replacing that system would not be incurred without providing substantial benefits to EchoStar in the long run.

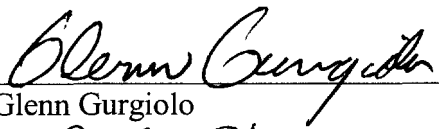
12. It is also impossible to evaluate EchoStar's analysis of the costs involved in replacing its conditional access system. At this point, EchoStar notes that it would have to replace the smart cards of 8 million subscribers. According to EchoStar's most recent filings with the Copyright Office, however, EchoStar had fewer than 4 million subscribers who receive broadcast signals. Even if EchoStar's subscriber base has grown substantially over the past six months, it is unlikely to have reached 8 million subscribers. Accordingly, EchoStar would need to provide new smart cards to those millions of new subscribers it anticipates regardless of whether it changes its conditional access system. It is also unknown whether a replacement conditional access system might be made

backwardly compatible such that EchoStar would not need to replace existing smart cards.

13. EchoStar's other estimates as to programming and testing costs are equally unclear and are not capable of being evaluated on the basis of EchoStar's Reply alone. EchoStar would have to provide the FCC and the professional sports leagues with the amount of service and features that would be provide in a new conditional access system, whether existing software could be used, whether new software would need to be developed, and other such information. EchoStar has not provided any of this information, even though, in my experience, it is likely that EchoStar has considered replacing its conditional access system.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this ____ day of July, 2001


Glenn Gurguolo
7-2-01

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
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Implementation of the Satellite Home)	CS Docket No. 00-2
Viewer Improvement Act of 1999:)	
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Sports Blackout Issue)	
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DECLARATION OF SUSANNE HILGEFORT

1. My name is Susanne Hilgefort. I am the Director of Distribution Development for the Office of the Commissioner of Baseball (“Baseball”). I am submitting this declaration in response to certain claims made by EchoStar in support of its request that the FCC not require EchoStar to provide blackout protection on network stations, as required by the FCC’s Sports Rule.

2. My responsibilities involve administration of Baseball’s licensing agreements with its national television rightsholders. Accordingly, I am familiar with the blackout provisions of Baseball’s agreements with these rightsholders, including FX and Fox Family (collectively, “Fox”) and ESPN. I also am responsible for providing notice to cable systems and satellite carriers of the distant signal Baseball telecasts that must be blacked out under the FCC’s Sports Blackout Rule.

FOX AND ESPN BLACKOUTS

3. I understand EchoStar has told the FCC that EchoStar must black out different geographic areas for each Baseball telecast, depending upon whether that telecast is carried on Fox or ESPN – e.g., that EchoStar must black out a Fox telecast of a

Baseball game involving the Cleveland Indians in one set of zip codes in the Cleveland area and that EchoStar must black out an ESPN telecast of a Cleveland Indians game in a different set of zip codes within the Cleveland area.

4. Baseball has no contractual relationship with EchoStar related to blackouts. Baseball does have licensing agreements with Fox and ESPN concerning the telecasts of Major League Baseball games. Those agreements impose precisely the same blackout requirements on Fox and ESPN.

5. Because the Fox and ESPN contracts are identical with regard to blackouts, Baseball expects that EchoStar will black out a telecast of any team's games in the same geographic area – regardless of whether that telecast is carried by Fox or ESPN. Baseball, however, does not provide Fox or ESPN the zip codes that need to be blacked out in any team's blackout area. Rather, Fox and ESPN both determine the zip codes to be blacked out on their own, and have the responsibility of informing their affiliates, such as EchoStar, of the zip codes to be blacked out for the telecasts of each team. Accordingly, any discrepancies in the blackout areas between Fox and ESPN are apparently the result of the use of different zip codes on the part of Fox and ESPN, and not Baseball.

6. EchoStar has not previously advised Baseball of any discrepancies in the zip codes that Fox and ESPN provided EchoStar; nor have Fox and ESPN advised Baseball of such discrepancies. Baseball first learned of these apparent discrepancies during a May 17, 2001 meeting among representatives of EchoStar, Baseball, other sports leagues and the FCC.

7. Baseball does have reason to believe that Fox and ESPN have been using different sets of zip codes to black out telecasts of Baseball games carried by EchoStar and other satellite carriers. These differences, however, have existed from as far back as 1997, when Fox first began telecasting Baseball games on a national basis on the FX, and later, Fox Family, networks. Accordingly, the differences between Fox and ESPN blackout regions would have been known to EchoStar for over four years.

8. During this four-year period, EchoStar never complained to Baseball that Fox and ESPN were using different sets of zip codes to black out Baseball telecasts.

35-Mile Zones

9. I also understand EchoStar has suggested that blacking out telecasts on network stations pursuant to the Sports Rule will require EchoStar to create (for purposes of its conditional access system) new 35-mile zones for each Major League Baseball team. I do not believe this is correct.

10. Baseball has sent notices to EchoStar (and others) requesting the full scope of blackout protection afforded by the FCC's Sports Rule. These notices identify specific telecasts to be blacked out on both superstations and network stations. My understanding is that EchoStar has not raised any issue about affording Sports Rule blackout protection on superstations.

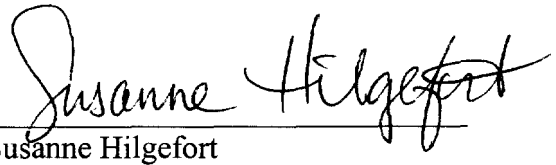
11. To provide the protection requested by Baseball regarding superstation telecasts, EchoStar must create (for purposes of its conditional access system) 35-mile zones for each Major League Baseball team. *Precisely the same 35-mile zones can be used to afford Sports Rule blackout protection on the network stations.* In short,

affording Sports Rule protection on network stations does not impose any additional requirement on EchoStar regarding the creation of 35-mile blackout zones.

12. Baseball, at its own expense, has already provided EchoStar with the zip codes to be blacked out within 35 miles of each Major League Baseball team. It is my understanding that all of the professional sports leagues (the NFL, the NBA and the NHL) will use precisely the same zip codes as Baseball in those markets that they share with Major League Baseball teams. Thus, EchoStar will not be required to create additional 35-mile blackout zones (for purposes of its conditional access system) for any NFL, NBA or NHL team(s) that share a market with a Baseball team.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of July, 2001



Susanne Hilgefort

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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Implementation of the Satellite Home
Viewer Improvement Act of 1999:)
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Sports Blackout Issue)
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CS Docket No. 00-2

DECLARATION OF FRANCIS HAWKINS

1. My name is Francis Hawkins, Senior Vice President – Business Affairs of the National Football League. ("NFL"). I am submitting this declaration in response to certain claims made by EchoStar Satellite Corporation ("EchoStar") in a May 17, 2001 meeting at the Federal Communications Commission.

2. My responsibilities include various administrative duties dealing with the NFL's various television plans on a national basis. I am familiar with blackout provisions of the NFL's contract with its rightsholders, including ESPN.

3. It is my understanding that EchoStar has told the Cable Services Bureau staff of the Commission that it must black out different geographic areas for telecasts that it carries of Major League Baseball teams, depending on whether that telecast is carried by an affiliate of Fox's cable networks or ESPN.

4. In dealing with the National Football League, however, EchoStar is not faced with that circumstance, since the NFL has only one cable carrier, ESPN. For the past 15 years, under the terms of the contract, an ESPN Sunday night telecast is blacked out in a specific area (i.e., within 35 miles of the home city when the game is not sold out for Sunday night originations). ESPN must make certain that any of its affiliates -- cable or satellite -- must abide by these blackout zones. In the case of the satellite

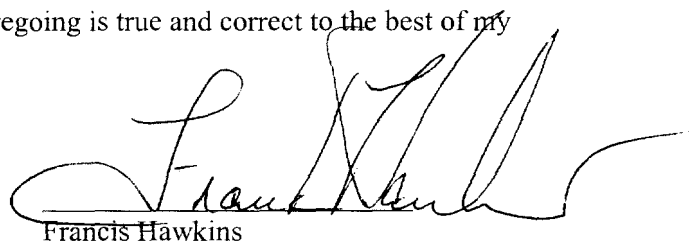
blackouts, the League does not provide Zip Codes to ESPN; this is the responsibility of ESPN and its satellite affiliate, in this case, EchoStar.

5. I also understand that EchoStar has suggested that blacking out telecasts on stations pursuant to the new Sports Rule will require it to create (for purposes of its conditional access system) new 35-mile zones for each NFL (as well as other sports) teams. It is also my understanding that EchoStar has assured the Commission that it is already providing blackout protection on superstation telecasts. Thirty-five-mile zones created for network stations would not be different than 35-mile zones created for superstations, so it would appear that no additional burden would be placed on the EchoStar system; the zones would be the same for network station telecasts and superstation telecasts.

6. The National Football League provided Zip Code lists to all satellite carriers on April 13, 2001 for the upcoming season. The League intends to use exactly the same 35-mile zones for the communities that it shares with Major League Baseball, the National Basketball Association, and the National Hockey League and has provided additional Zip Code lists for communities not shared with Baseball, the NBA, or the NHL. Thus, EchoStar will not be required to create any additional 35-miles blackout zones (for purposes of its conditional access system) for any NFL team that shares a market with another professional sports team.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 27th day of June, 2001.



Francis Hawkins



Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
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Implementation of the Satellite Home)	CS Docket No. 00-2
Viewer Improvement Act of 1999:)	
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Sports Blackout Issue)	
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DECLARATION OF DAVID DENENBERG

1. My name is David Denenberg, Deputy General Counsel for NBA Properties, Inc. I am submitting this declaration in response to certain claims made by EchoStar Satellite Corporation ("EchoStar") in a May 17, 2001 meeting at the Federal Communications Commission.
2. My responsibilities involve administration of the National Basketball Association's ("NBA's") various television plans on a national level and, in cooperation with outside counsel, supervision of NBA cable and satellite blackout notices. I am familiar with the blackout provisions of the NBA's contract with its rightsholders, including the Turner Networks (TBS and TNT).
3. It is my understanding that EchoStar has told the Cable Services Bureau staff of the Commission that it must black out different geographic areas for telecasts that it carries of Major League Baseball teams, depending on whether that telecast is carried by an affiliate of Fox's cable networks or ESPN.
4. In dealing with the NBA, however, EchoStar is not faced with that circumstance since the NBA has only one national cable licensee that televises NBA

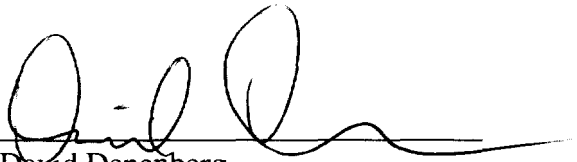
games – Turner. Moreover, it is my understanding that for the past several years, EchoStar has carried both Turner networks (i.e., TNT and TBS) and has blacked out the NBA games carried by such networks within 35 miles of the home city as spelled out in the NBA's contract with Turner. In fact, that contract requires Turner to ensure that all of its affiliates – cable and satellite – abide by these blackout zones.

5. I also understand that EchoStar has suggested that blacking out telecasts on stations pursuant to the new Sports Rule will require it to create (for purposes of its conditional access system) new 35-mile zones for each NBA (as well as other sports) teams. It is also my understanding that EchoStar has assured the Commission that it is already providing blackout protection on superstation telecasts. Thirty-five mile zones for network stations carrying NBA games should not be different than the 35-mile zones for superstations, so it would seem that no additional burden would be placed on the EchoStar system.

6. In late November 2000, the NBA provided 35-mile Zip Code lists to all satellite carriers, along with the Section 76.127 blackout notices for the 2000-2001 season. For the upcoming season, the NBA intends to coordinate its Zip Code lists with those of Major League Baseball, the National Football League, and the National Hockey League for communities that are shared among or between the leagues. Thus, EchoStar will not be required to create any additional 35-mile blackout zones for any NBA team that shares a market with another MLB, NFL, or NHL team. For communities not shared with MLB, the NFL, or the NHL, the NBA will provide a separate Zip Code list.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 2nd day of July, 2001



David Denenberg

Before The
FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

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In the Matter of)	
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Implementation of the Satellite Home)	CS Docket No. 00-2
Viewer Improvement Act of 1999:)	
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Sports Blackout Issue)	
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DECLARATION OF JOHN TORTORA

1. My name is John Tortora. I am Director, Team Television and Business Affairs, for the National Hockey League ("NHL" or "League"). I am submitting this declaration in response to certain claims by EchoStar Satellite Corporation ("EchoStar") in a May 17, 2001 meeting at the Federal Communications Commission ("FCC").

2. My responsibilities include the administration of certain local television issues for the NHL. I am familiar with the blackout obligations of the national and local telecast *rightsholders and distributors of NHL game telecasts, including ESPN and its affiliate channels*. I also direct certain NHL blackout notices, pursuant to Section 76.127 of the Rules of the FCC, of local over-the-air telecasts with outside counsel.

3. It is my understanding that EchoStar has told the Cable Services Bureau staff of the FCC that it must black out different geographic areas for national telecasts that it carries of Major League Baseball ("MLB") teams, depending on whether that telecast is carried by an affiliate of Fox Sports Net's cable networks or ESPN.

4. In dealing with the NHL blackouts, however, EchoStar is not faced with the circumstance of multiple national rightsholders since the NHL currently has a national contract requiring blackouts only with ESPN. Under the general terms of the contract, an ESPN (or espn2) telecast involving NHL teams may be blacked out in specific areas (e.g., ESPN is responsible for blacking out all cable and satellite systems: (i) within 50 miles of the home city of a participating club(s); and (ii) on certain additional cable systems and satellite subscribers within a somewhat larger area, if the game is televised locally by such participating club(s) via "non-standard" television such as a regional sports network.) ESPN has the obligation to make certain that all of its affiliates – cable or satellite – abide by these blackout rules, most likely via affiliate agreements. In the case of satellite blackouts, to my knowledge, the League does not provide zip codes to ESPN. I believe ESPN determines which zip codes are subject to the applicable blackout.

Networks and Superstations

5. It is my understanding that EchoStar has assured the FCC that it is already providing blackout protection on superstations for other sports, most of which have

teams located in cities that also have NHL franchises. The NHL would not create different 35-mile zones for network stations than for superstations blackouts. Thus, no additional burden would be placed on the EchoStar system; the zones would be the same for network station telecasts and superstation telecasts in cities in which there is an NHL franchise and a franchise from one of the other sports.

6. The NHL tends to provide notices to satellite carriers for the upcoming 2001-2002 season. For purposes of network station and superstation blackouts, the NHL intends to use the same 35-mile zones for the communities that it shares with MLB, the National Football League ("NFL") or the National Basketball Association ("NBA") and will provide zip code lists for communities not shared with MLB, the NFL, or the NBA. Thus, EchoStar will not be required to create any additional 35-mile blackout zones (for purposes of its conditional access system) for any NHL team that shares a market with another MLB, NFL, or NBA team.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3rd day of July, 2001



John Tortora